

AMENDED IN SENATE APRIL 2, 2002

AMENDED IN SENATE APRIL 1, 2002

SENATE BILL

No. 1765

Introduced by Senator Bowen

February 21, 2002

An act to amend Section 1793.1 of, and to add Section 1799.1b to, the Civil Code, relating to consumers.

LEGISLATIVE COUNSEL'S DIGEST

SB 1765, as amended, Bowen. Consumers.

The existing Song-Beverly Consumer Warranty Act provides consumer warranty protection to buyers of various products. Existing law requires that every manufacturer, distributor, or retailer which makes express warranties with respect to consumer goods fully set forth those warranties in simple and readily understood language, as specified.

This bill would provide that if the manufacturer, distributor, or retailer provides a warranty or product registration card or form, or an electronic online warranty or product registration form, to be completed and returned by the buyer, the card or form is required to inform the buyer that (1) failure to return the card or form does not diminish his or her warranty rights during the warranty period, and (2) the buyer may authorize or prohibit the addressee from using the personal identifying information of the buyer for specified purposes.

Existing law provides for the regulation of the disclosure of personal identifying information, as defined.

This bill would require that any consumer survey relating to products or services, as conducted by any person or entity, include on the survey

or form, or if neither is provided, express orally, an option allowing the consumer to authorize or prohibit the use of their personal identifying information by the person or entity for specified purposes. The bill would further require the person or entity conducting the survey to include on the survey or form, or if neither is provided, express orally, the name, address, and toll-free telephone number of that person or entity. The bill would make a violation of those provisions subject to certain civil remedies.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1793.1 of the Civil Code is amended to
2 read:

3 1793.1. (a) (1) Every manufacturer, distributor, or retailer
4 making express warranties with respect to consumer goods shall
5 fully set forth those warranties in simple and readily understood
6 language, which shall clearly identify the party making the express
7 warranties, and which shall conform to the federal standards for
8 disclosure of warranty terms and conditions set forth in the federal
9 Magnuson-Moss Warranty-Federal Trade Commission
10 Improvement Act (15 U.S.C. Sec. 2301 et seq.), and in the
11 regulations of the Federal Trade Commission adopted pursuant to
12 the provisions of that act. If the manufacturer, distributor, or
13 retailer provides a warranty or product registration card or form,
14 or an electronic online warranty or product registration form, to be
15 completed and returned by the buyer, the face of the card or form
16 shall contain the following statements in a font size no smaller than
17 the majority of the font size found on the remainder of the card or
18 form:

19 (A) “UNDER CALIFORNIA LAW, YOU ARE NOT
20 REQUIRED TO COMPLETE AND RETURN THIS
21 WARRANTY OR PRODUCT REGISTRATION CARD OR
22 FORM, OR THIS ELECTRONIC ONLINE WARRANTY OR
23 PRODUCT REGISTRATION FORM, IN ORDER TO MAKE
24 YOUR WARRANTY EFFECTIVE AND HAVE YOUR
25 PRODUCT SERVICED OR REPAIRED DURING THE
26 WARRANTY PERIOD.”

27 (B) “☐ You may send me product promotions and offers.



1 ☐ You may share my name, address, and other personal
2 identifying information with affiliates and nonaffiliated
3 companies and individuals.”

4 (2) A manufacturer, distributor, or retailer that collects
5 information from a consumer through a warranty or product
6 registration card or form, or an electronic online warranty or
7 product registration form, may only use that consumer’s name,
8 address, and other personal identifying information, as defined in
9 Section 1798.92, in the manner specifically authorized by that
10 consumer, as provided in subparagraph (B) of paragraph (1). A
11 manufacturer, distributor, or retailer may not use the personal
12 identifying information of a consumer in a manner other than as
13 provided in subparagraph (B) of paragraph (1), unless the
14 manufacturer, distributor, or retailer obtains express written
15 permission from the consumer prior to that use.

16 (3) Every work order or repair invoice for warranty repairs or
17 service shall clearly and conspicuously incorporate in 10-point
18 boldface type the following statement either on the face of the
19 work order or repair invoice, or on the reverse side thereof, or on
20 an attachment to the work order or repair invoice: A buyer of this
21 product in California has the right to have this product serviced or
22 repaired during the warranty period. The warranty period will be
23 extended for the number of whole days that the product has been
24 out of the buyer’s hands for warranty repairs. If a defect exists
25 within the warranty period, the warranty will not expire until the
26 defect has been fixed. The warranty period will also be extended
27 if the warranty repairs have not been performed due to delays
28 caused by circumstances beyond the control of the buyer, or if the
29 warranty repairs did not remedy the defect and the buyer notifies
30 the manufacturer or seller of the failure of the repairs within 60
31 days after they were completed. If, after a reasonable number of
32 attempts, the defect has not been fixed, the buyer may return this
33 product for a replacement or a refund subject, in either case, to
34 deduction of a reasonable charge for usage. This time extension
35 does not affect the protections or remedies the buyer has under
36 other laws.

37 If the required notice is placed on the reverse side of the work
38 order or repair invoice, the face of the work order or repair invoice
39 shall include the following notice in 10-point boldface type:
40 Notice to Consumer: Please read important information on back.

1 A copy of the work order or repair invoice and any attachment
2 thereto shall be presented to the buyer at the time that warranty
3 service or repairs are made.

4 (b) Every manufacturer, distributor, or retailer making express
5 warranties and who elects to maintain service and repair facilities
6 within this state pursuant to this chapter shall perform one or more
7 of the following:

8 (1) At the time of sale, provide the buyer with the name and
9 address of each service and repair facility within this state.

10 (2) At the time of the sale, provide the buyer with the name and
11 address and telephone number of a service and repair facility
12 central directory within this state, or the toll-free telephone
13 number of a service and repair facility central directory outside this
14 state. It shall be the duty of the central directory to provide, upon
15 inquiry, the name and address of the authorized service and repair
16 facility nearest the buyer.

17 (3) Maintain at the premises of retail sellers of the warrantor's
18 consumer goods a current listing of the warrantor's authorized
19 service and repair facilities, or retail sellers to whom the consumer
20 goods are to be returned for service and repair, whichever is
21 applicable, within this state. It shall be the duty of every retail
22 seller provided with that listing to provide, on inquiry, the name,
23 address, and telephone number of the nearest authorized service
24 and repair facility, or the retail seller to whom the consumer goods
25 are to be returned for service and repair, whichever is applicable.

26 SEC. 2. Section 1799.1b is added to the Civil Code, to read:

27 1799.1b. (a) For purposes of this section, the following
28 definitions apply:

29 (1) "Consumer survey" means a set of questions ~~designed to~~
30 ~~gather for gathering~~ information from a consumer about a specific
31 product or service, various products or services, or general
32 opinions and interests related to products or services.

33 (2) "Personal identifying information" means a person's
34 name, address, telephone number, driver's license number, social
35 security number, place of employment, employee identification
36 number, mother's maiden name, demand deposit account number,
37 savings account number, or credit card number.

38 (b) A person or entity conducting a consumer survey may only
39 use a consumer's name, address, and other personal identifying

1 information in the manner specifically authorized by the
2 consumer, as provided in subdivisions (c) and (d).

3 (c) ~~A~~ If a person or entity conducting a consumer survey
4 *collects personal identifying information from a consumer, the*
5 *person or entity* shall include the following statements on the
6 survey or form in a font size no smaller than the majority of the font
7 size found on the remainder of the survey or form:

8 (1) “☐ You may send me product promotions and offers.”

9 (2) “☐ You may share my name, address, and other personal
10 identifying information with affiliates and nonaffiliated
11 companies and individuals.”

12 (d) In the case of a consumer survey conducted in person, by
13 telephone, or through other oral means, *if* a person or entity
14 conducting the consumer survey *collects personal identifying*
15 *information from a consumer, the person or entity* shall orally ask
16 the consumer the following questions:

17 (1) “May we send you product promotions and offers”?

18 (2) “May we share your name, address, and other personal
19 identifying information with affiliates and nonaffiliated
20 companies and individuals”?

21 (e) A person or entity conducting a consumer survey may use
22 a consumer’s personal identifying information in a manner other
23 than as provided in subdivision (b), if the person or entity obtains
24 express written permission from the consumer prior to that use. If
25 a consumer survey is conducted in person, by telephone, or
26 through other oral means, the person or entity conducting the
27 consumer survey shall obtain express oral permission from the
28 consumer prior to that use.

29 (f) A person or entity conducting a consumer survey shall
30 include on the survey or form, in a font size no smaller than the
31 majority of the font size found on the remainder of the survey or
32 form, all of the following:

33 (1) The name of the person or entity conducting the survey.

34 (2) The address of the person or entity conducting the survey.

35 (3) A toll-free telephone number for the person or entity
36 conducting the survey.

37 (g) In the case of a consumer survey conducted in person, by
38 telephone, or through other oral means, a person or entity
39 conducting the consumer survey shall comply with the
40 requirements imposed by subdivision (f) orally.

1 (h) The remedies in Section 1799.2 apply to any violation of
2 this section.

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